

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2014100407
v.	[Primary Case]
RIO SCHOOL DISTRICT,	
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RIO SCHOOL DISTRICT,	OAH CASE NO. 2014070127
v.	ORDER GRANTING JOINT REQUEST
PARENT ON BEHALF OF STUDENT.	FOR CONTINUANCE AND SETTING
	MEDIATION, PREHEARING
	CONFERENCE AND DUE PROCESS
	HEARING

On October 29, 2014, the parties filed a first joint request to continue this consolidated matter to agreed dates approximately 90 days from the date initially set for the due process hearing in the consolidated cases. The parties request the mediation be continued from November 13, 2014 to February 26, 2015; the due process hearing be continued from December 2, 2014, to March 16 through 19, 2015; and a prehearing conference be set on March 9, 2015 at 10:00 a.m. The reason for the length of the continuance requested is due to the number of issues presented by the consolidated cases and is supported by declarations of counsel from both parties demonstrating their unavailability for four consecutive days of hearing before the dates requested.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a

party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is granted. Although this is an initial joint request for continuance following the consolidation of the two matters, and although OAH generally permits parties to stipulate to first continuances, the parties' requested dates result in the hearing occurring some six months after the first case was set. The declarations of counsel demonstrate good cause to continue the consolidated matters to the dates requested. However, no further continuances are contemplated for any reason, including calendar conflicts that may arise after the date of this order. The parties are being granted more than adequate time to participate in mediation, and prepare for a hearing. This matter will be set as follows:

Mediation:	February 26, 2015 at 9:30 a.m.
Prehearing Conference:	March 9, 2015, at 1:00 p.m.
Due Process Hearing:	March 16, 2015, beginning at 1:30 p.m., and March 17, 18 and 19, 2015, beginning at 9:00 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: October 29, 2014

/s/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings